

# Hearing on License Suspension for Arrearage Checklist

A payer's occupational license, or recreational or sporting license, or any combination of the licenses, may be suspended if "[a]n arrearage has accrued in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order" and "[a]n order of income withholding is not applicable or has been unsuccessful in assuring regular payments on the support obligation and regular payments on the arrearage." [MCL 552.628\(1\)\(a\)-\(b\)](#).

"[A] payer's driver license may be suspended if both of the circumstances in [[MCL 552.628\(1\)](#)] are true and both of the following additional circumstances are true:

- (a) The court has conducted an ability to pay assessment and determined that the payer has an ability to pay the support but is willfully not making his or her support payments.
- (b) The office of the friend of the court determines that no other sanction would be effective in assuring regular payments on the support obligation and regular payments on the arrearage." [MCL 552.628\(2\)\(a\)-\(b\)](#).

The payer may request a hearing *within 21 days* to object to the proposed suspension based on a mistake of fact concerning the overdue support amount/payer's identity or to request a payment schedule for the arrearage. See [MCL 552.628\(3\)\(c\)-\(d\)](#). In addition to objecting to the license suspension, the payer may also assert that a change in circumstances justifies modification of the support order. [MCL 552.628\(3\)\(e\)](#).

Consolidate hearings if the payer files a petition for modification of the support order and the petition is pending at the time the hearing on the proposed suspension is scheduled UNLESS good cause is shown on the record to keep the hearings separate. *If hearings are held separately, the*

*modification hearing MUST be held before the suspension hearing.*<sup>1</sup> See [MCL 552.629\(2\)](#).

**Procedures to follow before hearing:**

- On receipt of timely request for hearing (within 21 days after suspension notice was mailed to payer), schedule hearing. See [MCL 552.629\(1\)](#).
- Do NOT enter a suspension order and do NOT send a suspension notice while the hearing is pending. See [MCL 552.629\(1\)](#).

**Procedures to follow during the hearing:**

- Confirm proof of service.
- If payer fails to appear for the scheduled hearing, MAY order the suspension of payer's license(s).<sup>2</sup> See [MCL 552.629\(5\)\(a\)](#).
- If payer appears for the scheduled hearing,
  - Ensure hearing on proposed license suspension is being consolidated with payer's motion to modify child support (if one was filed and is currently pending) OR the modification hearing was already held. See [MCL 552.629\(2\)](#).
  - Determine whether payer followed/failed to follow an arrearage payment schedule.
  - Determine whether payer has/does not have an accrued support arrearage.
  - Determine whether payer has/does not have, or could/could not have, by the exercise of due diligence, the capacity to pay all or some portion of the amount due.
  - Order:
    - the payment of the arrearage, as reasonable, in one or more scheduled installments of a sum certain

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<sup>1</sup> See [MCL 552.628\(2\)\(e\)](#), which permits a payer to file a petition for modification of the child support order "if the payer believes that the amount of support ordered should be modified due to a change in circumstances[.]" For a checklist on the modification of child support, see the Michigan Judicial Institute's [Modification of Child Support Checklist](#).

<sup>2</sup> If the payer requests a hearing on the proposed license suspension, but fails to appear for the scheduled hearing, and 21 days has elapsed since the Friend of the Court's (FOC's) notice to the payer of the proposed license suspension, the FOC must notify the Secretary of the State (SOS), which will result in suspension of the payer's driver's license. See [MCL 257.321c](#); [MCL 552.629\(3\)](#).

(arrearage payment schedule) IF it is determined that payer has accrued an arrearage on his/her support order and that payer has, or could by the exercise of due diligence have, the capacity to pay all or some portion of the amount due. See [MCL 552.629\(3\)](#).

the suspension of payer's license(s) (if desired) IF it is determined that payer has failed to comply with the ordered arrearage payment schedule. See [MCL 552.629\(5\)](#).

If payer failed to comply with the ordered arrearage payment schedule, may direct the Friend of the Court (FOC) to notify the Secretary of State (SOS) of the failure, which will result in suspension of payer's driver's license. See [MCL 257.321c](#); [MCL 552.629\(6\)](#).

Ensure suspension order indicates that the licensing agency must suspend the license within seven business days after receipt of the suspension order, or sooner if required by the act that authorizes the licensing agency to suspend the license. [MCL 552.630\(1\)](#).

May (if payer agrees) order a reasonable schedule for the payment of the arrearage. [MCL 552.630\(2\)](#).

On ordering a schedule for payment of the arrearage, also enter an order rescinding the suspension order that is effective as provided in [MCL 338.3434](#) or [MCL 324.43559](#).<sup>3</sup> [MCL 552.630\(2\)\(a\)](#).

For court forms related to domestic relations actions, see the One Court of Justice [website](#).

For additional domestic relations resources, see the Friend of the Court Bureau [website](#).

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<sup>3</sup> "If a suspension order has been sent, within 7 business days after entry of the order rescinding the suspension order, the [FOC] shall send a copy of the order rescinding the suspension order to the licensing agency." [MCL 552.630\(2\)\(a\)](#).

